



## Town of Nantucket

### REQUEST FOR PROPOSALS FOR FEMA RECOMMENDED EMERGENCY WARNING SYSTEMS FOR THE TOWN OF NANTUCKET

The Town of Nantucket invites qualified responders to submit proposals for the purchase and installation of FEMA recommended emergency warning systems at three (3) locations for the Town of Nantucket.

#### I. GENERAL INFORMATION AND SUBMISSION REQUIREMENTS.

1. Requests for Proposals can be obtained from, and proposals will be accepted at the Town of Nantucket, Procurement Office, 16 Broad Street, Nantucket, MA 02554, until **2:00 PM, Tuesday, January 20, 2015**. **Three (3) copies of the proposal are required.**

2. Price and non-price (technical) proposals must each be submitted in separate envelopes that are sealed and clearly marked:

*Price Proposal for Emergency Warning Systems*

*Non-Price (or Technical) Proposal for Emergency Warning Systems*

If the proposal is mailed, the sealed price proposal and separately sealed non-price proposal must both be enclosed in a separate sealed envelope for mailing. **Failure to comply strictly with these requirements may result in the rejection of a proposal.**

3. Proposals shall not be opened publicly, but will be opened in the presence of one or more witnesses. At the opening of the proposals the Chief Procurement Officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. Proposals will not be available to the public until after the evaluation of proposals is complete.
4. Award date. Award will be made within thirty (30) days after proposal opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All submittals shall be valid for a minimum period of thirty (30) calendar days following the date established for acceptance. The Town shall award a contract, if at all, to the responsible offeror whose proposal is responsive and the most advantageous taking into consideration price and the evaluation criteria set forth in this Request for Proposals.
5. If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed or faxed to all companies and individuals on record as having requested the RFP. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda; and if no such forms are provided with the addenda, on the face of the offeror's non-price proposal. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
6. Questions concerning this RFP must be submitted in writing to Heidi Bauer, Chief Procurement Officer, 16 Broad Street, Nantucket, MA 02554 **before 2:00 PM, Thursday, January 15, 2015**. Questions may be delivered, mailed, emailed (hbauer@nantucket-ma.gov) or faxed. Written responses, if any, will be in



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the form of addenda to this RFP and will be posted on the Town website and mailed, emailed or faxed to all companies and individuals on record as having requested the RFP.

7. Responses may be modified, corrected or withdrawn only by written notice received by the Town of Nantucket prior to the time and date set for the response opening, except as provided in the next paragraph. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. \_\_\_\_" and must reference the original RFP response.
8. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated above prior to the time and date set for the receipt of all proposals. After such time and date, an offeror may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. The procurement officer shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended bid are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct offer and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct offer is not similarly evident.
9. Negligence on the part of the responder in preparing the proposal confers no rights for the withdrawal of the proposal after it has been opened.
10. The Town of Nantucket reserves the right to reject any and all responses and to waive any minor informality in responses received whenever such rejection or waiver is in its best interest and to the extent doing so is permitted by law.
11. The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting responses. All submittals shall become the property of the Town of Nantucket. All plans, specifications and other documents resulting from this contract shall become the property of the Town of Nantucket. All proposals shall be deemed a public record.
12. Responders must be willing to enter into the Town of Nantucket's standard form of contract.
13. The RFP, and any subsequent contract for the services, is hereby issued in accordance with M.G. L. c. 30B.
14. Sealed proposals received prior to the date of opening will be kept unopened. No responsibility will attach to an officer or person for the premature opening of a proposal not properly addressed, sealed and/or identified.
15. Any proposals received after the advertised date and time for opening will be returned to the responder unopened.
16. Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.



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17. The Tax Compliance Certification and the Certificate of Non-Collusion, included in this RFP, must be completed, signed, and enclosed with the non-price proposal. These forms must be signed by the authorized individual(s).
18. Unexpected closures. If, at the time of the scheduled response opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the response opening will be postponed until 3:00 PM on the next normal business day. Proposals will be accepted until that date and time.
19. The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages submittals from qualified MBE/DBE/WBE firms.
20. Responders should be aware that many overnight mailing services do not guarantee service to Nantucket.
21. Responses to the RFP must be prepared according to the guidelines set forth herein. Selection of the successful responder will be based upon an evaluation and analysis of the information and materials required under the RFP, and in accordance with section 6 of Chapter 30B of the General Laws.



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### II. SCOPE OF SERVICES.

#### Background:

To adequately cover the island of Nantucket with siren tones per the Federal Emergency Management Agency (FEMA) recommendations, the initial purchase and installation of sirens would be at three (3) different locations providing coverage for the more populated areas of the Island. This system will allow the municipality the ability to notify residents and visitors of pending hazard situations in a timely manner and will enhance the *ping4* and media notifications currently in place.

Materials and labor will be necessary to install a complete turn-key, fully functional system. The emergency managers will be capable of controlling and regulating audible warning devices. Severe weather can seriously damage critical telephone and internet infrastructure. This system will provide the critical redundancy in warning and alert emergency communications. In cases where messaging technologies share the same physical platform for access (i.e., cell phones, texting and internet), traditional warning devices such as sirens continue to represent important components of emergency warning systems.

Training shall cover all aspects of system operation including: an overview of the system including all software interface; operation and use of the system and control software; activation of individual units; silent tests; weekly, monthly and annual testing as recommended.

The expected outcome will be a community significantly more prepared to deal with threats both man-made and natural. The citizens will be more informed and aware of what protection and response mechanisms the municipal departments and on-island agencies are able to provide.

Each proposal should be evaluated on relevant firm experience and references; product description such type of siren system, controllers, price, functionality, specifications, maintenance costs and warranty; dB rating at 100 ft.; frequency of warning tone; Omni-directional/directional/rotating; HP and duty rating of motors; vulnerability to lightning; preventive maintenance costs; willingness of vendor to work with the Town resources allowing the Town to meet its share of the project through in-kind services; battery backup capability or run times on backup; system delivery time and installation; mounting requirements; method of activation with redundancy; and radio activation. There are many factors for consideration other than price alone.

## COMMUNITY EMERGENCY NOTIFICATION SYSTEM

### Specifications and Requirements



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### Introduction



This requirement is for a community emergency notification system. This system shall have the capability of providing real-time information to the community. The system shall provide tone broadcasts appropriate to warn the community of any man-made or natural emergency including severe weather, watches, warnings and evacuation routes.

### Technical (or non-price) Proposals:

#### *Required Technical Qualifications*

The contractor shall demonstrate full knowledge and understanding of the Specifications and Requirements for implementation of a community-wide emergency notification system by submitting a detailed and comprehensive proposal outlining their methodology, features and capabilities, and equipment and number of sirens needed. Any deviation or exception taken to these Specifications and Requirements must be noted and a full explanation for the alternative must be provided.

The contractor must have been in business for a minimum of 20 years.



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The siren manufacturer must be ISO-9001 certified.

The contractor shall provide five references for similar outdoor warning systems and be able to demonstrate previous experience and past performance with other community systems. Past performance must include the installation of at least two other community installations within the last three years, since 2012.

Contractor shall provide factory-trained personnel to perform system design, testing, installation and training. Upon completion of the installation and testing of the system, training must be conducted with up to four individuals from the Department of Public Safety for a period not to exceed four hours. Trainees must then be able to demonstrate familiarization of operation, testing and basic troubleshooting of the system.

System must be manufactured and tested in the United States of America.

### *Technical Services Required*

The contractor shall design, manufacture, deliver and install a customized Emergency Warning System that shall meet all specific requirements listed in this Specifications and Requirements.

The system must be planned out in detail to ensure that safe sound levels are not exceeded as well as providing for adequate coverage of the community. An acoustic map indicating expected acoustic coverage shall be submitted as part of the contractor proposal. The map must be approved by someone with a minimum of 5 years experience with GIS mapping and acoustic design.



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### *Outdoor Emergency Warning System Requirements*

#### Control Stations

Contractor shall provide a Control Station (CS) that will provide two-way communications capability for equipment status monitoring and activation control. The Control Station shall consist of a graphical user interface for easy-to-use point and click operation of the system, along with a separate communication control unit that provides two-way wireless communication with the outdoor siren units. The communication control unit shall have a battery that will provide up to 8 hours of operation without AC power and must be capable of activating the outdoor warning system on its own.

The CS shall be able to communicate with outdoor units to monitor, control, log, and report all system activities and status. It shall be able to conduct polling, and to initiate silent tests, alarm activations. The status of the system shall include, but is not limited to, low battery, AC fail, charger fail, cabinet intrusion, speaker array status, radio communications and other maintenance information in the system. The CS shall report success, failure, not verified, normal, abnormal and out of service displays indicating the status of the system at all times.

Each CS shall include the following features and equipment:

A specialized system control software, and a two-way communication control unit that will interface between the computer station and the remote field units (sirens).

The system must support the ability to initiate concurrent and/or sequential activations.

The system shall have a zoning capability allowing the user to activate by selecting preconfigured or on-the-fly groups of siren locations, without several manual actions required.

The control station shall have the ability to test the sirens individually, or totally. A silent test feature shall be available, and where each system unit will display the resulting test status. The vendor shall provide a system secured against spurious or mischievous activation. Provide the ability to cancel (stop) the tone if inadvertently initiated.



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### *Siren Requirements*

The siren must operate in all normal environmental conditions expected at the installation location.

The siren equipment shall be a stationary (non-rotating) electronic siren. The siren equipment requirements shall be standard products from the siren equipment manufacturer. No customization of the siren equipment shall be allowed. Mechanical and/or electromechanical sirens with moving parts will not be accepted.

The siren cabinet shall be a single stainless steel cabinet that contains both the siren electronics and batteries in two separate compartments that are sealed from each other. The electronics section must be completely sealed, and the battery compartment shall be vented and the vents shall be covered with a bug screen. Two separate cabinets are not permitted. Cabinets must be outfitted with weather tight/resistance fittings and connections due to the harsh weather environment found on Nantucket Island.

All tones shall be locally generated in the field units. The speaker array shall have configurability of sound direction ranging from unidirectional to Omni-directional sound pattern, in 90 degree increments. The speaker array shall have configurability of 90, 180, 270, 360 degree sound coverage at any point in lifetime of siren. Speaker arrays that only provide Omni directional sound patterns (cell or dish type) will not be accepted.

To accommodate for future changes in population or land use, the modular design for the speaker assembly shall allow for on-site positioning/repositioning of speakers to control sound in any designated direction from 0 to 800 watts.

The siren shall provide constant and complete alarm tone notification

The speaker assembly shall be designed to allow the speakers to be pointed parallel with the ground surface and to allow a downward tilt to control sound coverage. The speaker's downward tilt shall be configured for either one or all 90-degree sound pattern directions. Speaker arrays that cannot provide a downward tilt (cell or dish type) will not be accepted.

All radio FSK communications shall be accomplished using Frequency Shift Keying (FSK) encoded data with security code to prevent unauthorized messages or activation. The security code shall include a checksum, time stamp, and rotating security coding. The use of Two-Tone or DTMF communications will not be accepted due to security concerns.

In order to prevent damage or premature failure to the siren drivers, the siren amplifiers shall be Class-D pulse width modulated amplifiers and shall use a sine wave, not a square wave, signal for all tones applied to the speakers. The amplifier's frequency response shall be approximately 250 Hz to 5000 Hz.

The siren shall have the capability of reducing the power of locally activated tones and to perform a silent test signal to evaluate the amplifiers and drivers. A local CANCEL signal shall be available to immediately halt an active alarm.

The siren shall provide status messages to the control station. The siren will provide status change indications such as door open (intrusion), ac power, charger, amplifier, and battery voltage low. These status messages shall be reported immediately when the siren condition occurs.





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The siren shall operate on either a 12VDC or 24Vdc battery system. The siren shall use Solar or AC power only to maintain charge on the batteries, and each siren shall include (if using AC) a built-in temperature compensated switch mode battery charger that will keep the battery system at full charge. The siren shall use sealed maintenance free 12Vdc, 100 AH batteries.

The siren must be able to operate in standby mode for at least 7 days without AC or solar charging, followed by 30 minutes of full-power activation.

The internal circuitry of the siren controller shall include a high performance microprocessor with RAM, Flash memory, real time clock, automatic gain control circuit, dip switches to easily set the siren address and logic power supplies. In addition, the siren integrated controller and Class D Amplifier shall be incorporated in one printed circuit board design. All printed circuit boards shall be conformal-coated, preventing damage from harsh environments.

The system shall provide some means of warning people in the immediate area impending siren activation, before full siren dB output is achieved to allow people in the immediate area to depart the area or protect hearing.

The siren shall not produce an unsafe volume at ground level when the system is activated.

All outside items installed shall be completely weatherproof following common installation practices and industry codes.

**The evaluation of a technical proposal may include revisions to the proposed plan of services included in the proposal which should be obtained by the Town in negotiation prior to awarding the contract to the offeror of the proposal.**

### **Client References to be included with the Technical (non-price) Proposal:**

Please include a list of all clients for whom you have provided a similar service during the past five years. Please include a contact name, company name, address, and telephone number.

The Town expects to check references. One or more poor references may be a basis for determining that a proposer is not responsible and result in a rejection of the proposal. Reference questions will include but may not be limited to landscape maintenance quality and general customer satisfaction.

### **Price Proposal:**

Please provide separate prices for the above-referenced services broken down for each aspect of the contract.

### **Insurance Required:**

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of



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subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.

- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

### III PROPOSAL EVALUATION PROCEDURE

The Chief Procurement Officer shall designate one or more persons to evaluate responsive non-price proposals according to the evaluation criteria contained below. Once evaluations are complete, the Chief Procurement Officer shall open and review price proposals, and make an award to the successful vendor.

Submittals that comply with the quality requirements will be further evaluated based on the comparative criteria detailed below. Each proposal will be assigned a rating for each comparative criterion and a composite rating.

Finalists will be identified from the evaluation of comparative criteria. The Town will rank these finalists. Price proposal will then be considered. The Town will negotiate a contract with the highest ranked finalist who proposes a price within the Town's budgeted amount. The Town reserves the right to reject any and all proposals if such rejection is in its best interest.

#### Minimum Quality Criteria/Requirements

Proposals must meet the following minimum criteria/requirements:

1. Proposals must provide all of the items described in Section I and II and below.
2. Technical Proposals must provide proof of Insurance(s).

#### Comparative Criteria

HA – Highly Advantageous

A – Advantageous

NA – Not Advantageous

#### Staff Size:

HA – staff size is greater than fifteen (15) full-time, year-round, technical, design and installation employees (clerical or administrative staff not included).

A – staff size is less than ten (10) full-time, year-round technical, design and installation employees (clerical or administrative staff not included).

NA – staff is less than three (3) full-time, year-round technical, design and installation employees (clerical or administrative staff not included).

Relevant Experience of proposer and/or proposed staff:



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HA – the employees providing services have more than (5) years professional design, technical and installation experience in providing emergency warning siren equipment within the United States

A -- the employees providing services have three (3) to five (5) years professional design, technical and installation experience in providing emergency warning siren equipment within the United States

NA – the majority of employees proposed to be utilized have less than three (3) years professional experience per person.

### **Business Experience with governmental entities, defined as municipal, state and or federal organizations**

HA – Proposer has five (5) to ten (10) years experience working with governmental agencies on the design, installation of emergency warning siren systems.

A – Proposer has five (5) years experience working with governmental agencies on the design, installation of emergency warning siren systems.

NA – Proposer has less than five (5) years experience working with governmental agencies on the design, installation of emergency warning siren systems.

### **Experience working with municipalities:**

HA – Proposer has had more than three (3) municipal clients in the past five years.

A -- Proposer has had between one (1) and three (3) municipal clients in the past five years.

NA -- Proposer has had no municipal clients in the past five years.

### **Plan of Services:**

HA – Proposer has shown the resources and ability to meet the requirements of the installation of an emergency siren warning system in a remote location such as Nantucket Island and has the understanding of possible logistical issues that may arise.

A - Proposer has shown the resources and ability to meet the requirements of the installation of an emergency siren warning system

NA – Proposer has not shown the resources or ability to meet the requirements of the installation of an emergency siren warning system

## **IV. RULE FOR AWARD**

The Town will determine the most advantageous proposal from a responsible and responsive proposer, taking into consideration price and all evaluation criteria set forth in the RFP.



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### **V. TERM OF CONTRACT**

The contract awarded will be for one year ending on December 31, 2015.



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### PROPOSAL RESPONSE FORM

#### FEMA RECOMMENDED EMERGENCY WARNING SYSTEMS

The undersigned proposes to the Town of Nantucket the contract price specified below for the specifications contained herein.

**Proposal Price must include all labor costs, training, all material costs and all other expenses.**

**There will be no reimbursable expenses allowed in the contract.**

SERVICE	AMOUNT
	\$
TOTAL PROPOSAL AMOUNT:	\$

Total proposal amount in words:

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Name of proposer

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Telephone Number

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FEIN or SSN

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Address, City, State and Zip Code

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Signature of proposer's authorized individual

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Date



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Printed Name & Title

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***NOTE:** If the proposer is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.*



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### CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

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Signature of person signing bid or proposal

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Name of Business



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### TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Federal Employer ID Number

\_\_\_\_\_  
Name of Corporation

By: \_\_\_\_\_  
President's Signature

Date: \_\_\_\_\_





## Town of Nantucket

### AGREEMENT BETWEEN THE TOWN OF NANTUCKET, MASSACHUSETTS AND XXXXXXX

THIS AGREEMENT made effective \_\_\_\_\_, 2015, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administration, with offices at Town Hall, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **XXXXXXXXXXXXXXXXXX** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

#### RECITALS:

WHEREAS, the TOWN desires to retain the CONTRACTOR to provide certain services for the TOWN, as described below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR

- 1.1 The TOWN hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement to perform certain services for the TOWN, as described in Article 2.
- 1.2. In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the TOWN, on the one hand, and the CONTRACTOR, on the other, and the TOWN shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

#### ARTICLE 2 - SERVICES OF THE CONTRACTOR

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the TOWN and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the TOWN. The TOWN shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the TOWN in writing.
- 2.4 The CONTRACTOR represents and warrants to the TOWN that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform its services in a professional manner, and in accordance with the reasonable standard of care implied by law and all applicable local, state or federal ordinances, laws, rules and regulations, all of which are incorporated



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herein by reference. The CONTRACTOR will obtain and pay for any and all permits, bonds and other items required for the proper and legal performance of the Work.

- 2.5 The CONTRACTOR represents and warrants to the TOWN that it is not a party to any agreement contract or understanding which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of "hard" copies, graphics, magnetic media or otherwise) which are received and produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be "work for hire" and shall be and become the property of the TOWN upon the receipt and production of such items by the CONTRACTOR. The TOWN acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the TOWN in connection with any other project shall be at the TOWN's sole risk, unless otherwise agreed to by the CONTRACTOR in writing.
- 2.7 The CONTRACTOR shall be responsible for the professional and technical accuracy, and for the coordination, of all designs, drawings, specifications, estimates and other work or services furnished by CONTRACTOR or its consultants and subcontractors. The CONTRACTOR shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary. The CONTRACTOR shall supervise and direct the Work, using its best skills and attention, which shall not be less than such state of skill and attention generally rendered by the design and engineering profession for projects similar to the subject project in scope, difficulty and location.
- 2.8 The CONTRACTOR shall not use any subcontractors or sub-consultants (not identified herein) for any work required under this Agreement unless such use has been approved in advance in writing by the TOWN.
- 2.9 Notwithstanding anything to the contrary in this Agreement, the CONTRACTOR shall not be relieved of its obligations under this Agreement by the TOWN's performance, or failure to perform, any of the TOWN's administrative duties under this Agreement, including, but not limited to, the TOWN's review and/or approval of plans, estimates, programs, documents, materials, work and services furnished by CONTRACTOR.

### ARTICLE 3 - PERIOD OF SERVICES

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the TOWN's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving Notice to Proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed not later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.
- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an unforeseen event beyond its control such as fire or other casualty, abnormal adverse



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weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the TOWN shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which, in the TOWN's reasonable determination, makes the performance of the Agreement impossible without the expenditure of additional TOWN funds, the TOWN may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

### ARTICLE 4 - PAYMENTS TO THE CONTRACTOR

- 4.1 The compensation due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the TOWN at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the TOWN.
- 4.3 The TOWN will pay the CONTRACTOR upon review and approval of such invoices by the TOWN or its designee.
- 4.4 This engagement may be subject to budgetary restrictions which may limit the total amount of funds available for the Work. Accordingly, unless otherwise stated on Exhibit B, the TOWN will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the TOWN.
- 4.5 The CONTRACTOR and its sub-contractors shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the CONTRACTOR in the preparation of the documents, as reasonably determined by the TOWN.

### ARTICLE 5 - TERMINATION

- 5.1 This Agreement may be terminated, with cause, by either the TOWN or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The TOWN shall have the right to terminate this Agreement for its convenience and without cause upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:
  - (a) unless the TOWN terminates for cause under paragraph 5.1, in which event the TOWN shall be under no obligation to make any payments to CONTRACTOR except for those services satisfactorily provided, the TOWN shall remain responsible for payments for the services satisfactorily performed and, unless this Agreement is for a lump-sum, expenses of



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CONTRACTOR reasonably accrued prior to the effective date of the notice of termination in compliance with this Agreement (less the value of any claims of the TOWN), all as determined by the TOWN in its sole discretion, but for no other amounts, including, without limitation, claims for lost profits on Work not performed; and

- (b) The CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to WORK performed pursuant to the Agreement.

### ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 The CONTRACTOR agrees to indemnify and save the TOWN harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the TOWN for any and all costs, damages and expenses, including reasonable attorney's fees, which the TOWN pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the TOWN with respect to the CONTRACTOR, in connection with this Agreement, and shall survive termination or expiration of this Agreement.

6.2 Before commencing work the CONTRACTOR shall obtain and maintain at its expense and from insurance companies of a Best Rating of A or better, which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
- (d) Errors and Omissions Insurance of not less than \$2 million per claim. The coverage shall be in force from the date of execution of the Agreement to the date when all design and construction work is completed and accepted by the TOWN, unless, however, the policy is a "claims made policy," in which event the policy shall remain effective and in full force for a period of six (6) years after completion of all design and construction work relating to the engagement.
- (e) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
- (f) Such additional insurance as the TOWN may reasonably require, as set forth on Exhibit A.



## Town of Nantucket

CONTRACTOR shall maintain such insurance during the term of Agreement and give the TOWN twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the TOWN. The TOWN will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the TOWN upon the execution of this Agreement and at such times thereafter as the TOWN may reasonably request.

### ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the TOWN upon payment for such to the CONTRACTOR and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the TOWN.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the TOWN relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the TOWN specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments), and Exhibit C (Tax Compliance Certificate), and any additional exhibits referred to therein, constitute the entire agreement of TOWN and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by TOWN and CONTRACTOR. If there is any conflict among the terms set forth in the body of this Agreement and the terms or provisions set forth in Exhibit A or Exhibit B, or in any other attachment hereto, or in any other document or law incorporated by reference herein, such conflict shall be resolved by giving precedence to the party's address above by certified mail, return receipt requested Terms or provisions contained in the following documents in accordance with the following hierarchy, with the topmost document of the highest priority:
  - A. Applicable federal, state and local laws, rules and regulations.
  - B. Amendments to this Agreement, if any.
  - C. Exhibits A and B.
  - D. This Agreement.
  - E. Any other attachments to this Agreement.

To the extent the conflict is not resolved by applying the above hierarchy, the conflict shall be resolved in a manner that results in the highest quantity and best quality of goods and services to the TOWN.



## Town of Nantucket

- 7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the Town is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.
- 7.6 Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.
- 7.7 Notwithstanding anything to the contrary in this Agreement, this Agreement is subject to the appropriation and availability of funds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF NANTUCKET,  
MASSACHUSETTS:

CONTRACTOR:

\_\_\_\_\_  
C. Elizabeth Gibson  
Town Manager

\_\_\_\_\_  
Name  
President

Funding Org/Obj: \_\_\_\_\_

FEIN: \_\_\_\_\_

Approved as to Funds Available:

Purchase Order #: \_\_\_\_\_

\_\_\_\_\_  
Bob Dickinson – Assistant Town Accountant

CONTRACT EXHIBIT A



## Town of Nantucket

### CONTRACTOR, SCOPE OF WORK, TERM

1. Name of Contractor:
2. State of Incorporation:
3. Principal Office Address:
4. Description of Services:
5. Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):
6. Term of Agreement (§3.1):
7. Completion Date (§3.2):
8. Additional Insurance Coverage (§6.2(e)):



## Town of Nantucket

### AGREEMENT EXHIBIT B

#### PAYMENTS

1. Lump Sum Method
  - a. **Maximum Project Amount:**
  - b. **Payment Increments:** CONTRACTOR shall submit monthly invoices based on a percentage of work complete work as delineated in a progress report accompanying each invoice for approval and processing by the TOWN.
  - c. **Reimbursable Expenses (if any):** None.





## Town of Nantucket

### TAX COMPLIANCE CERTIFICATION EXHIBIT C

Pursuant to M.G.L. 62C, Sec.49A, the undersigned certifies under the penalties of perjury that it, to the best knowledge and belief of management, has filed all state tax returns and paid all state taxes required under law (if any, are so required).

By:

---

Name, President

---

Date

---

FEIN:



## Town of Nantucket

### PROPOSAL CHECKLIST

In order to simplify the evaluation process and obtain the maximum degree of comparison between proposals, the Town has prepared this checklist for all responders to use in compiling proposals.

- ☐ Current Certificates of Insurance
- ☐ Non-price (technical) proposal
- ☐ Price proposal (separate from the technical proposal)
- ☐ Certificate of Non-Collusion
- ☐ Tax Compliance Certification
- ☐ Signed signature page of Town of Nantucket contract enclosed herein to indicate that responder is willing to enter into said contract.